



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 127-00
23 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the United States Naval Reserve filed enclosure (1) with this Board, requesting the removal of two failures of selection for promotion so that he can be retained in the Naval Reserve.

2. The Board, consisting of Mr. Zarnesky, Ms. Gilbert and Ms. Hardbower, reviewed Petitioner's allegations of error and injustice on 16 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was commissioned as an ENS (O-1) in the Supply Corps of the Naval Reserve on 23 May 1995. At the time of his commissioning he had completed almost 13 years of active and reserve enlisted service. Subsequently, he was promoted to LTJG (O-2).

d. Petitioner's last fitness report shows that on 1 October 1997 he was detached from his unit and transferred to the Individual Ready Reserve (IRR). Subsequently, while in the IRR, he was considered for promotion and failed of selection to the grade of LT (O-3) on two occasions. This apparently occurred because he was not a fully qualified supply officer and only had one fitness report as a LTJG in the record for a short period of

time.

e. In anticipation of returning to a drilling status, Petitioner applied for and, on 17 August 1999, was granted a change in designator to 3105, which indicates he is a fully qualified supply officer. On 30 September 1999 he was again assigned to a reserve unit. On 8 December 1999 he was informed that since he had twice failed of selection to LT, his discharge from the Naval Reserve was required on 1 July 2000.

f. Petitioner states that he stopped drilling because his father was seriously ill with cancer and needed intensive care. He contends that he was not aware that he would be considered for promotion while in the IRR, and was not advised of his options in this matter. He has submitted evidence showing that his father died on 10 March 1999 and that he returned to a drilling status as soon thereafter as possible.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes Petitioner's lengthy period of enlisted service, the illness of his father and his desire to serve in the Naval Reserve. The Board also notes that he should not have been assigned to a reserve unit if he was in a twice failed of promotion status. Given the circumstances, the Board believes that although the failures of selection were proper, he should be given an opportunity to continue his career in the Naval Reserve. Therefore, the Board concludes that the record should be corrected by removing one of the two failures of selection. With this action, Petitioner will have one opportunity to be considered by a selection board as a qualified supply corps officer with a current fitness report in his record. If he again fails of selection, he should be considered as having two failures of selection for all purposes.

RECOMMENDATION:

a. That Petitioner's naval record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to LT as an officer with one failure of selection and that he not be discharged on 1 July 2000 as is now scheduled.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

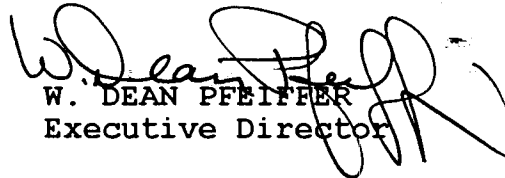
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director